

REMARKS

Claims 1-17 are pending. Claims 7 and 12-15 are withdrawn, and Applicants will request rejoinder of these method claims upon allowance of compound claims. Claims 1-6, 8-11, and 15-17 are rejected. Applicants acknowledge the objections to the sequence listing, specification, and drawings and the rejections under 35 U.S.C. §§101 and 112 have been withdrawn.

CLAIM REJECTIONS UNDER 35 U.S.C. §102

Claims 1, 4-6, 8-11, and 15-17 are rejected under 35 U.S.C. §102(b) as anticipated by WO 99/65928. The Examiner states

...the sequences disclosed by WO 99/65928 and WO 01/77384 are indeed fragments of SEQ ID NO:1. For example, the sequence disclosed by WO 99/65928 consists of a 9 base pair fragment of SEQ ID NO:1. See specifically AAA CCC AAG. Similarly, the sequence disclosed by WO 01/77384 consists of an 11 base pair fragment of SEQ ID NO:1. See specifically CAT AAA CCC AA.

Applicants respectfully disagree..

SEQ ID NO: 5894 in WO 99/65928 is a 10 base sequence, specifically, it is AAA CCC AAG **C**. However, the Examiner is applying it as a 9 base sequence (AAA CCC AAG) to reject claims 1-6, 8-11, and 15-17.

Applicants respectfully assert that SEQ ID NO.: 5894 is thus neither "SEQ ID NO:1" nor is it "a fragment thereof" [SEQ ID NO: 5894]. The Examiner has removed the terminal C of SEQ ID NO.: 5894 prior to comparing it to Applicants' SEQ ID NO.: 1. The Examiner is thus comparing a fragment of SEQ ID NO.: 5894, and not the complete SEQ ID NO.: 5894 disclosed in WO 99/65928, with a fragment of Applicants' SEQ ID NO.:1. Applicants assert that SEQ ID NO: 1 cannot be fragmented to result in the full SEQ ID NO.: 5894, because SEQ ID NO.: 5894 contains C in the position where SEQ ID NO: 1 contains G. Thus, SEQ ID NO.: 5894 cannot anticipate Applicants' "SEQ ID NO.: 1 or a fragment thereof" and WO 99/65928 does not anticipate claims 1, 4-6, 8-11, and 15-17. Applicants respectfully request withdrawal of the rejection.

Claims 1, 5, 6, 8, and 15-17 are rejected under 35 U.S.C. §102(b) as anticipated by WO 01/77384. Applicants respectfully disagree.

SEQ ID NO.: 357682 in WO 01/77384 is an 12 base sequence, specifically it is CAT AAA CCC AAA. However, the Examiner is applying it as an 11 base sequence to reject claims 1-6, 8-11, and 15-17. The Examiner is thus comparing an 11-base fragment of SEQ ID NO.: 357682, and not the complete SEQ ID NO.: 357682 disclosed in WO 01/77384, with a fragment of Applicants' SEQ ID NO.: 1. Applicants assert that SEQ ID NO.: 1 cannot be fragmented to result in the full SEQ ID NO.: 357682, because SEQ ID NO.: 357682 contains A in the position where SEQ ID NO.: 1 contains G. Thus, SEQ ID NO.: 357682 cannot anticipate Applicants' "SEQ ID NO.: 1 or a fragment thereof" and WO 01/77384 does not anticipate claims 1, 4-6, 8-11, and 15-17. For at least these reasons, Applicants respectfully assert that the '384 reference does not anticipate claims 1, 5, 6, 8, and 15-17. Applicants respectfully request withdrawal of the rejection.

CLAIMS REJECTED UNDER 35 U.S.C. §103

Claims 1-3 are rejected under 35 U.S.C. 103(a) as obvious over WO 99/65928 in view of WO 01/68122. Applicants respectfully disagree.

As analyzed above, WO 99/65928 contains a 10 base sequence. There is no teaching, suggestion, or motivation for a person of ordinary skill in the art, to remove the terminal C of SEQ ID NO.: 5894. Applicants assert that WO 01/68122 does not cure the deficiencies of WO 99/65928 at least because WO 01/68122 is cited for modifications of SEQ ID NO.: 1, not SEQ ID. NO. 1 itself. Therefore, Applicants respectfully request withdrawal of the rejection of claims 1-3.

CONCLUSION

Applicants believe the application is in condition for allowance. Payment of the Request for Continued Examination and three month extension fees are being simultaneously made by Electronic Funds Transfer. No other fees are believed due but, if deemed necessary, the Office is authorized to charge fees to Deposit Account No. 20-0809.

The Examiner is invited to contact Applicants' undersigned representative with questions.

Respectfully submitted,
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